

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TULLIO L. DELIBERALI,

Plaintiff,

v.

A.W. CHESTERTON, INC., et al.

Defendants.

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CIVIL ACTION NO. 2:18-cv-02682-ER

DECLARATION OF WILLIAM A. LOWELL, USN (RET.)

Owens-Illinois, Inc. ("Owens-Illinois") submits the Declaration of William A. Lowell, USN (Ret.) in support of its Notice of Removal.

Respectfully submitted,

**MARON MARVEL BRADLEY
ANDERSON & TARDY, LLC**

By: /s/ Chad D. Mountain
Chad D. Mountain, Esquire

Date: June 28, 2018

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Counsel for Defendant Owens-Illinois, Inc.

DECLARATION OF CAPT. WILLIAM A. LOWELL, USN (RET.)

William A. Lowell declares as follows:

1. Attached is my curriculum vitae. I have testified as an expert at trial and in deposition on numerous occasions at the request of both plaintiff and defense counsel.
2. I graduated from Maine Maritime Academy in 1956 with a degree in Marine Engineering. Upon graduation, I received an Ensign's Commission in the U.S. Naval Reserve and an unlimited Third Engineer's License for the Merchant Marine allowing me to sail on any steam-driven or diesel-powered ship of any horsepower. I obtained an unlimited Chief Engineer's License in 1964 for steam-driven vessels, and in 1973 I obtained an additional unlimited Chief Engineer's License for diesel-powered ships.
3. I served for 31 years in the United States Naval Reserves as a naval engineer and retired as a Captain. During that time, I served at sea and in port on dozens of different naval ships, including aircraft carriers, battleships (3), destroyers, and auxiliary craft and was assigned primarily to the machinery spaces. I worked at the Bath Iron Works Shipyard for 33 years and retired as General Manager of Bath Iron Work's Ship Repair Yard in Portland, Maine, in 1995. Bath Iron Works is a large shipbuilding company at which hundreds of Coast Guard, Navy, and commercial ships have been constructed and modernized.

4. Throughout my career, I have been a member of many professional societies. For 25 years, I was a member of the Society of Naval Architects and Marine Engineers, and served several years on their national council. While employed at Bath Iron Works, I was a member of the American Society of Naval Engineers and a member of the American Bureau of Ships Engineering Committee that wrote and approved shipbuilding regulations for commercial ships. I also am a member of the Portland Marine Society and the Ward Room Club of Boston, which is comprised mostly of senior naval officers.

5. I served in the Merchant Marines as a marine engineer from 1956 until 1962. As a marine engineer in the Merchant Marines, I averaged 12 hours per day in machinery spaces with hands-on experience in maintenance and repairing steam systems and all associated equipment. Many of the ships on which I worked during this time period originally were built as merchant ships that had been converted to naval service then returned to merchant use. These were all steam driven ships.

6. While at the Bath Iron Works Shipyard from 1962 until 1989, I spent the majority of time aboard ship working in the engineering spaces, operating, maintaining, repairing, testing, making final adjustments, dealing with equipment manufacturers' field service engineers to resolve engineering problems and contractual disputes. While at Bath Iron Works, I also served as Chief Engineer on over 100 ships and in excess of 200 sea trials.

7. I served as Commanding Officer of two Reserve Detachments, one at Portsmouth Naval Shipyard in Portsmouth, New Hampshire, and the other at Norfolk Naval Shipyard. I have also been aboard three nuclear carrier sea trials as a member of the Navy's Board of Inspection and Survey.

8. Throughout my entire career, I have worked with and around all of the equipment located in the machinery spaces of military and commercial ships, including all insulating materials. Based upon this experience, I am personally familiar with the types of equipment installed in the machinery spaces aboard these Navy vessels, including the function of the equipment and the use of asbestos materials to insulate equipment. I also am familiar with the proper functioning, maintenance and repair of the equipment installed in the machinery spaces of those vessels. Specifically, I am personally familiar with the proper functioning, proper maintenance, and types of repairs that would be necessary on boilers, pumps, engines, turbines, valves and all other auxiliary machinery used aboard such vessels.

9. As a marine engineering student, I studied, learned, and practiced the operation and maintenance of all of the equipment found in the machinery spaces of both steam-driven and diesel-powered vessels, including the many and various pumps, engines, and valves that are essential for the functioning of vessels. I started working and training aboard ships in 1953 and continued to be involved in their operation, maintenance and construction until the 1990s. I personally have been involved in the

construction, maintenance and repair of equipment used on steam and diesel ships. I also have supervised others doing this work. I understand how this equipment is operated, maintained, repaired and insulated with asbestos.

10. During my career in the Naval Reserves, I served for five years as a repair officer in a ship repair unit and worked on many different ships and was responsible for repairs to the equipment and machinery at Boston Naval Shipyard and Newport, Rhode Island destroyer piers.

11. During my career, I also worked with U.S. Coast Guard Inspectors doing periodic inspections on machinery aboard commercial ships. In addition, I also served periodically with the Navy Board of Inspection and Survey over approximately fifteen years and was responsible for inspecting and evaluating the equipment in the machinery systems of military ships to ensure that such systems were in good material condition and operating and being maintained properly. I have also worked with American Bureau of Ships surveyors and have been responsible for inspecting ship equipment and detailing the overhaul and repair work to be undertaken.

12. Because of my experience, I am familiar with the jobs of Navy personnel. Having achieved the rank of Captain in the Naval Reserves, I had responsibility for supervising naval personnel, especially the supervision of those workers making repairs to the ship equipment. As an officer responsible for maintenance and repair at various shipyards, my job required that I know the job classifications and the job duties

and responsibilities of Navy personnel who operated, maintained, inspected and repaired the equipment located in the machinery spaces. In addition, as a result of my career in the Merchant Marines, and thirty-three years at Bath Iron Works, I became familiar with the job duties of shipyard workers and naval shipboard personnel.

13. As part of my detailed work experience and military service set forth above, I have had the opportunity to, and experience in, evaluating and considering the potential exposure to asbestos encountered by naval personnel and shipyard workers in connection with work with a variety of equipment and products used in marine engine room settings, including aboard United States Navy submarines and ships. In addition, I have developed extensive knowledge and familiarity with the type of equipment used aboard merchant and naval vessels, as well as their intended functions and operating requirements. I am familiar with plans, designs, and specifications for asbestos-containing materials used in the construction of commercial and Navy vessels, as well as the actual planning, design, construction, and repair of these vessels. I am familiar with the lists of approved products for use in the construction and repair of such vessels, including the Military Specifications and the Qualified Products Lists (QPLs), and the significance of the presence or absence of a product or manufacturer on such lists.

14. All of my opinions stated herein are based on my experience, knowledge and training as a Merchant Marine Engineer, Naval Reserve Officer, Chief Operating

Engineer at Bath Iron Works for twenty-one years and General Manager at Bath Iron Works' ship repair yard for six years, and are stated within a reasonable degree of engineering certainty. Moreover, through my professional training, experience, education, and management positions in the shipbuilding industry, I am familiar with plans, designs and specifications used in the construction and repair of these vessels. I am also familiar with the Navy manuals, specifications, qualified products lists, departure reports, and other documents routinely used in design, construction and repair of Navy, Coast Guard, and commercial ships. Throughout my career, I utilized equipment manufacturers' technical manuals and plans for the equipment located in the machinery spaces aboard Naval and merchant vessels.

15. I am familiar with and have reviewed documents relating to the Navy's approval of Kaylo thermal insulation, including approved uses for that material. I am familiar with Owens-Illinois's communication with the Navy regarding its inability to supply the Navy with Kaylo as requested by the Navy in September 1948. I am familiar with the Navy's QPLs for pipe covering and block insulation and the products on those lists during the relevant periods in these cases.

16. Owens-Illinois sold its Kaylo Division to Owens-Corning Fiberglas in April 1958. Accordingly, the Qualified Products Lists for Block, version 2819-12 in September 1958, lists Owens-Corning as manufacturer of Kaylo block. The Navy QPL for Pipe-Covering, version 2781-17, lists Owens-Corning Fiberglas Corp. as the

manufacturer of Kaylo in November 1958 and thereafter. (Note: Pipe-Covering QPL Version 2781-16, from September 1958, is missing from the United States Archives. More likely than not, however, it also lists Owens-Corning as manufacturer of Kaylo pipe-covering in September 1958, just as the September 1958 QPL for block did.) Owens-Illinois is not listed on any Navy insulation QPLs after September 1958 for Kaylo pipe-covering or block. Accordingly, Owens-Illinois Kaylo was no longer approved for use by the United States Navy. Only United States Navy-approved thermal insulation products on applicable Qualified Products Lists could have been used on the ships or boats.

17. The United States Navy and the Navy Shipyards controlled the work and work environment for its personnel. Sailors and shipyard workers would have been expected to follow Navy protocol and rules and to comply with Navy specifications in performing their work and in discharging their duties. I am familiar with such rules, protocol, procedures and specifications for Navy and Shipyard work and will testify about all applicable issues

18. The United States Navy approved precise specifications regarding thermal block and pipe insulation, and required Owens-Illinois Kaylo to conform to those specifications. Owens-Illinois Kaylo could not have been used aboard United States Navy vessels (ships or boats) unless it conformed to those specifications and unless it appeared on the Qualified Products List for pipe covering and block insulation. I am familiar with the United States Navy specifications, standards, testing, and approval process for these thermal insulation products generally, and Owens-Illinois Kaylo specifically, and I am prepared to testify about Owens-Illinois Kaylo's conformance with those specifications and the United States Navy's approval and listing of Owens-Illinois Kaylo on the Qualified Products List, and the subsequent removal of Owens-Illinois Kaylo from the Qualified Products List in 1958.

19. The United States Navy conducted engineering experiments and approved Owens-Illinois Kaylo block and pipe covering under the United States Navy specifications by correspondence dated January 12, 1944 and May 29, 1944. The certificate for approval specifically states: "NAVY SPECIFICATIONS: This approval is based upon material in strict accordance with the governing Navy Department specification, and nothing in connection with this approval shall be construed as a waiver of any part of the governing specifications." The U.S. Naval Engineering Experiment Station test report on Kaylo describes the testing done to determine whether Kaylo material met the specifications for different classes. Those tests included

chemical analyses (including determining how much asbestos was used in the material), physical properties, and thermal conductivity.

20. United States Department of Defense Military Specification MIL-STD-129 specified the markings for boxes of materials such as Owens-Illinois Kaylo thermal insulation during the time period Owens-Illinois sold Kaylo.¹ While MIL-STD-129 did specify and require some warnings in some situations, MIL-STD-129 did not require a warning about asbestos on thermal insulation materials like Owens-Illinois Kaylo during the time period Owens-Illinois manufactured and sold Kaylo. Thus, boxes of Owens-Illinois Kaylo that had no warning about asbestos complied with MIL-STD-129.

21. Upon review of any additional information or materials that may become available in this case, I will supplement, if necessary and appropriate, my opinions in this case.

I declare under penalty of law that the foregoing is true and correct. Executed on

28 FEB 2018.

By:

W A Lowell
William A. Lowell

¹ This is a different specification from MIL-M-15071D which applied to shipboard electrical and mechanical equipment.

17William A. Lowell

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Farmingdale, ME 04344
207.582.5750
william.lowell@twc.com

EDUCATION

<u>Maine Maritime Academy</u> , Castine, ME Bachelor of Science Degree in Marine Engineering	1956
<u>University of Maine</u> , Various Institutional Locations Business and industrial courses	<i>Multiple Attendance Dates</i>
<u>Bath Iron Works Corporation</u> , Bath, ME and Portland, ME Management and leadership courses	<i>Multiple Attendance Dates</i>
<u>U.S. Navy</u> , Various Duty Locations Management and leadership courses	<i>Multiple Attendance Dates</i>
<u>University of Southern Illinois</u> , Various Institutional Locations Transportation courses	<i>Multiple Attendance Dates</i>

WORK EXPERIENCE

United States Navy

- Thirty-one year veteran (retired) of the U.S. Naval Reserve; attained rank of Captain (O-6); held two commands; served as repair officer of a ship maintenance/repair unit.
- Served with the United States Navy's Board of Inspection and Survey as Senior Engineering Inspector on many occasions; evaluated sea trials on approximately 24 different United States Navy ships including nuclear and non-nuclear aircraft carriers, three battleships, cruisers, destroyers,

Merchant Marines

- Served six years with the Merchant Marines United States lines; attained rank of Chief Engineer; served aboard large steam ships, tankers, freighters, and ore ships; hands-on maintenance and watch engineer.

207.582.5750

William A. Lowell william.lowell@myfairpoint.net

Bath Iron Works Corporation

- Thirty-three years shipbuilding veteran.
- Dealt with material issues, contract disputes, customer's quality, safety, cost, planning/scheduling, selection of manufacturers, design, and other types of problems encountered in a 33-year shipbuilding career.
- From 1989 through 1995, served as General Manager at the Bath Iron Works Portland Shipyard; involved in all aspects of managing a shipyard that employed at any one time between 500 and 2200 individuals, managed a very successful \$300 million United States Coast Guard modernization program during this period ('89 through '95).
- Served 20 years as Chief Operating Engineer at Bath Iron works; worked in Engineering, Estimating, Planning, Contracts, Projects, Programs, and all aspects of shipbuilding, modernization, and repair, including over 200 sea trials.
- Served as Sea Trial Chief Engineer on 70+ ships and about 200 sea trials, including tankers, container ships, dredges, roll-on-roll-offs, and many naval ships; responsible for activating, testing, and sea trialing all ships built at Bath Iron Works from 1961 through 1989.

Maritime Consulting Company

- Formed "Maritime Consulting Company" after retiring from Bath Iron Works; worked part-time as consultant on shipbuilding projects and asbestos litigation serving defendants and plaintiffs.

PROFESSIONAL AFFILIATIONS

- Society of Naval Architects/Marine Engineers – Executive Committee, New England Chapter
- American Bureau of Ships – Engineering Committee
- American Society of Naval Engineers
- Maine Maritime Academy Alumni Association – Board of Directors
- Maine Maritime Academy Academic Advisory Board
- Propeller Club
- Wardroom Club of Boston
- Portland Marine Society

CERTIFICATE OF SERVICE

The undersigned attorney certifies on June 28, 2018 that copies of the Declaration of William A. Lowell, USN (Ret.) in support of Owens-Illinois's Notice of Removal was served under Federal Rule of Civil Procedure 5 by electronic means to all counsel of record.

**MARON MARVEL BRADLEY
ANDERSON & TARDY, LLC**

By: /s/ Chad D. Mountain
Chad D. Mountain, Esquire